K

1948.

File No. B. Musselman Wakf Public Trusts — Registration and Parsi Public Trusts Registration /48

Legal DEPARTMENT

B. BRANCH

Subject:— A Bill to repeal Musselman Wakf, Bombay Public Trusts Registration & Parsi Public Trusts Registration (Amendment) Act 1947 and the Musselman Wakf (Bombay Amendment Act) Act 1945 & to re-enact certain Provision of said Acts.

L.A. Bill No. VII of 1947

Bombay Act No. XXV of 1948

File No. B. Musselman Wakf Public Trusts Registration & Parsi Public Trusts Registration /48

Std. Sectt. Slip 24 B a

557-B

Office of the R.L.A.

The requisite draft Bill is sent herewith.

2. The subject matter of the Bill falls under entries 2 and 34 in the Provincial Legislative List and entries 9 and 15 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As clauses 3 and 4 of the Bill are repugnant to the provisions of the existing Indian Law relating to public trusts and trustees which are matters falling under entry 9 in the Concurrent Legislative List, it will be necessary to reserve the Bill for the consideration of the Governor-General under section 107(2) of the Government of India Act, 1935.

3. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b), (c), or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay. The Bill does not require any sanction or recommendation under the said Act.

4. Revenue Department will no doubt attach the requisite Statement of Objects and Reasons to the Bill.

S.D. 24/- - 29/11.
for Remembrancer of Legal Affairs.

U. S. to R. D., No. 9603, dated the 30th November 1945.

submitted for signature

M.T. 26/11/45.

S.S. Id. 26/11/45

EVT. 25/6.

Office of the R.L.A.

The question of re-enactment of the Muslaman Wakf, (Bombay Amendment) Act, 1945 (Bom XV of 1945), was discussed with H.M.(L) in light of the proposal to enact a self-contained Wakf Act in this Province, draft Bill in respect of which has been sent to the R.L.A. for scrutiny a couple of days back. The Scheme of the proposed draft Bill envisages the appointment of a Commissioner who would be a person qualified to be a High Court Judge and to constitute a Wakf Court presided over by the Commissioner (cf. clauses 8 and 18 of the draft Bill); and from the provisions of clause 24 it would appear that the Wakf Court is to be empowered inter alia to hold inquiries in the prescribed manner to ascertain whether a wakf exists. The jurisdiction of all courts including the High Court is, under clause 22, barred in respect of matters enumerated in clause 24 but clause 3 provides for an appeal to the High Court from orders of the Wakf Court.

2. If, however, it is considered undesirable that any court should be empowered to decide summarily any case in which raises the question whether a wakf exists, and that such question should be left to be decided by courts of competent jurisdiction in the usual manner, a provision on the lines of sub section (3) of section 5 of the Charitable and Religious Trusts Act, 1920 (XIV of 1920), for stay of proceedings when any person, who denies the existence of a wakf, undertakes to institute a suit for a declaration to that effect can be incorporated in the proposed self contained Wakf Bill.

3. Since the Bill covers over fifty clauses, it would not be feasible to draft the same and get it enacted before the 2nd April 1945 on which date the Muslaman Wakf

Office of the R.L.A.

The question of re-enactment of the Mussalman Wakf. (Bombay Amendment) Act, 1945 (Bom XV of 1945), was discus with H.M.(L) in light of the proposal to enact a self-con ained Wakf Act in this Province, draft Bill in respect of which has been sent to the R.L.A. for scrutiny a couple days back. The Scheme of the proposed draft Bill envisag the appointment of a Commissioner who would be a person qualified to be a High Court Judge and to constitute a Wa Court presided over by the Commissioner (cf. clauses 5 an 18 of the draft Bill); and from the provisions of clause 24 it would appear that the Wakf Court is to be empowered inter alia to hold inquiries in the prescribed manner to ascertain whether a wakf exists. The jurisdiction of all courts including the High Court is, under clause 52, barr in respect of matters enumerated in clause 24 but clause provides for an appeal to the High Court from orders of t Wakf Court.

2. If, however, it is considered undesirable that any court should be empowered to decide summarily any case w which raises the question whether a wakf exists; and that such question should be left to be decided by courts of competent jurisdiction in the usual manner, a provision o the lines of sub-section (3) of section 5 of the Charitabl and Religious Trusts Act, 1920 (XIV of 1920), for stay of proceedings when any person, who denies the existence of a wakf, undertakes to institute a suit for a declaration to that effect can be incorporated in the proposed self contained Wakf Bill.

3. Since the Bill covers over fifty clauses, it would not be feasible to draft the same and get it enacted bef the 2nd April 1946 on which date the Mussalman Wakf

(Bombay Amendment) Act, 1945, will lapse. The Revenue Departmen is therefore, advised to proceed with the enactment of L.A. Bill No. VII of 1947, as pending the enactment of the proposed self-contained Bombay Musalman Wakf Bill, it is necessary to keep the provisions of section 60(1)(1) and (1a) on the Statute book so that pending proceedings may be not be prejudicially effected. The Revenue Department should inform the Bombay Legislature Department of its intention to proceed with the Bill (Bill No. VII of 1947) in the ensuing session.

Sd/- P.M. Jal,
9/2
Remembrancer of Legal Affairs.

U. R. to R.D. No. 1413 dated 10th February 1948.

submitted for signature.

Id. - 9/2

S.A.S. Sd/- 9/2.

EVY. 25/5.

No. 3330
Legal Department.

Bombay Castle, 10th March 1948.

From

P.M. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay.

Subject:- Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor an authentic copy of the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 21st February 1948 and on the 3rd March 1948, respectively.

2. The subject-matter of the Bill falls under entries 2 and 34 in List II and entries 9 and 10 in List III in the Seventh Schedule to the Government of India Act, 1935. As clauses 3 and 4 of the Bill are repugnant to the provisions of the existing law relating to Public Trust and Trustees which are matters falling under entry 9 ~~xx~~ in List III, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. I also forward herewith six copies of each of the items Nos. 1 to 3 and three copies of item No. 4 of the

No. 3338
Legal Department.

Bombay Castle, 10th March 1948.

From

P.M. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bomb.,.

Subject:- Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor an authentic copy of the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 21st February 1948 and on the 3rd March 1948, respectively.

2. The subject-matter of the Bill falls under entries 2 and 34 in List II and entries 9 and 10 in List III in the Seventh Schedule to the Government of India Act, 1935. As clauses 3 and 4 of the Bill are repugnant to the provisions of the existing law relating to Public Trust and Trustees which are matters falling under entry 9 in List III, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. I also forward herewith six copies of each of the items Nos. 1 to 3 and three copies of item No. 4 of the

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Papers noted in the margin.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	The Bill was not referred to a Select Committee.
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 21st February 1948 and of the Bombay Legislative Council dated the 3rd March 1948.	4. Since the Bill seeks to repeal the

Muselmen Waif, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1946 and the Muselmen Waif (Bombay Amendment) Act, 1945 made by the Governor during section 93 regime and to re-enact certain provisions thereof it is necessary to publish this Bill as an Act before 3rd April 1948 the date on which the provisions of the Acts referred to would otherwise cease to have effect. It is, therefore, requested that His Excellency the Governor General may be moved to give his assent to the Bill before the said date and to convey the assent by telegram and also to communicate the date on which the assent is given.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- P.H. LAD,
Secretary to the Government of Bombay,
Legal Department.

Through
The Secretary to the Government of Bombay,
Revenue Department.

XVI. 25/5.

No. P.S.G. 1309

Office of the Private Secretary to the Governor,
Bombay 1 Government House,
15th March 1948.

From

L.M. Nadkarni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Subject: The Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947.

Sir,

With reference to the above-mentioned Bill which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on 21st February and 3rd March 1948, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as clauses 3 and 4 of the Bill are repugnant to the provisions of the existing law relating to Public Trust and Trustees which are matters falling under entry 9 in the Concurrent Legislative List, it is necessary to reserve the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947, for the consideration of His Excellency the Governor/is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserved the Bill for the consideration of His Excellency the Governor General.

section 107(2) of the Government of India Act, 1935 His Excellency the Governor

Your obedient servant

L.M. NADKARNI
Private Secretary to the Governor of Bombay

No. P.S.G. 1310
Office of the Private Secretary to the Governor,
Government House,
Bombay, 15th March 1948.

Copy forwarded with compliments for information to :-

1. The Secretary to Government, Legal Department, with reference to his letter No. 2386, dated 10th March 1948.

2. The Secretary to Government, Revenue Department, with reference to his endoresement No. 2217/33, dated 12th March 1948.

By order of the Governor of Bombay,

Sd/-

For Private Secretary to the Governor of Bombay.

EVY. 25/5.

No. P.S.G.- 1536.

From

L.M. Maclorni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department, Bombay.

Government House,

Bombay, 2nd April 1948.

Subject: The Musalman Waqf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947.

Sir,

In continuation of my letter No. PSG.- 1496, dated the 30th March 1948, I am to return herewith the authentic copy of the Musalman Waqf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Bill, 1947, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/-

For Private Secretary to the Governor of Bombay.

MVI. 25/5.

Bills?

A Bill to repeal the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts r Registration (Amendment) Act, 1944, and the Musalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 907,
Bombay Castle, 22nd January 1947.

Memorandum from the Revenue Department, No. 2217-G/39 dated the 21st January 1947.- Transforming for necessary action the papers relating to a Bill to repeal the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Musalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

RESOLUTION.- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 23rd January 1947, as Bill No. VII of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 25th January 1947.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd/- K.M. CHITNAVIS,
Assistant Remembrancer of Legal Affairs.

To
The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with

a request that 230 Gazette copies of the Bill and the State ment of Objects and Reasons may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department, etc.

EVI. 25/5.

a request that 230 Gazette copies of the Bill and the State ment of Objects and Reasons may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department etc.

EVY. 25/5.

Acts.

Publication of the Musalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3110,

Bombay Castle, 30th March 1948.

Letter to the Private Secretary to the Governor, No. 2998, dated the 10th March 1948.

Letter from the Private Secret..., ..., No. P.S.G. 1476, dated the 30th March 1948.

RESOLUTION.- The Act, should be published as Bombay Act No. XXV of 1948, in the Bombay Government Gazette dated the 30th March 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/- S.L. CHAKMARI,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with ... copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department), etc.

KVI. 28/5.

31-5-
31-5

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L. A. BILL No. VII OF 1947.

A Bill to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

(As read for the third time and passed by the Legislative Assembly on the 21st February 1948.)

26 Geo. 5, Ch. 2. Bom. X of 1944. Bom. XV of 1945.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1947.

Repeal of Bom. X of 1944 and Bom. XV of 1945.

2. The Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, are repealed.

Bom. X of 1944. Bom. XV of 1945.

Re-enactment of sections 2 to 4 of Bom. X of 1944.

3. Sections 2 to 4 of the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, are re-enacted.

Bom. X of 1944.

Re-enactment of section 2 of Bom. XV of 1945.

4. Section 2 of the Mussalman Wakf (Bombay Amendment) Act, 1945, is re-enacted.

Bom. XV of 1945.

P Bk Hb 373

STATEMENT OF OBJECTS AND REASONS.

1. This Bill is intended to re-enact the amendments to the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, made during the section 93 regime by Bombay Acts No. X of 1944 and XV of 1945.

16th January 1947. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

A. BILL No. VII OF 1947.]

(As read for the third time and pass by the Legislative Assembly on the 21st February 1948.)

A Bill to repeal the Mussalman Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

[Mr. MORARJI DESAI, M.L.A.,

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The Bombay Government

PUBLISHED BY AUTHORITY

TUESDAY, 30TH MARCH 1948.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XXV OF 1948—An Act to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts	301-302

The following Act of the Bombay Legislature having been assented to by the Governor-General on the 28th March 1948 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXV OF 1948.

(First published, after having received the assent of the Governor-General, in the "Bombay Government Gazette" on the 30th March 1948.)

An Act to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, and to re-enact certain provisions of the said Acts; It is hereby enacted as follows :—

26 Geo. 5, Ch. 2.
Bom. X of 1944.
Bom. XV of 1945.

1. This Act may be called the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1947. Short title.

Repeal of Bom. X of 1944 and Bom. XV of 1945.

2. The Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, and the Mussalman Wakf (Bombay Amendment) Act, 1945, are repealed. Bom. X of 1944. Bom. XV of 1945.

Re-enactment of sections 2 to 4 of Bom. X of 1944.

3. Sections 2 to 4 of the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944, are re-enacted. Bom. X of 1944.

Re-enactment of section 2 of Bom. XV of 1945.

4. Section 2 of the Mussalman Wakf (Bombay Amendment) Act, 1945, is re-enacted. Bom. XV of 1945

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.